

LANDLORD AND TENANT FAQs

1) What laws outline the rights of both landlords and tenants?

The Tennessee Uniform Residential Landlord and Tenant Act, Title 66, Chapter 28, was enacted in 1975. It, and subsequent caselaw interpretations of the Act, have established the rights and obligations of landlords and tenants involving the rental of dwelling units, including mobile homes.

The Act does not apply to commercial property, and there is no state statute outlining the rights and obligations of parties to these contracts. Rather, the terms of the lease and contract law apply.

The Act applies only to rental agreements where the dwelling is located in a county having a population of more than 75,000 residents according to the 2010 census.

If the dwelling is located in a county where the population does not surpass that threshold, the terms of lease agreement outline the rights and obligations of the parties. In those counties, where there is no written lease agreement, a court will apply contract law regarding the verbal contract and might look to the Tennessee Uniform Residential Landlord and Tenant Act for persuasive authority only.

2) Should I ask for a written rental agreement before moving in?

Yes. This memorializes the expectations of both parties and can prevent future disputes. It is important for tenants to keep a copy of their signed rental agreement. It is also wise to document in writing any repairs or renovations the landlord promises to make and anticipated dates for completion.

A lease is a binding contract and should include information regarding the duration of the lease, the amount and date rent is due, as well as any other pertinent information.

Under the Act, if the landlord does not sign a written rental agreement, acceptance of rent without reservation by the landlord binds the parties on a month-to-month tenancy.

3) How do security deposits work?

All landlords of residential property requiring security deposits prior to occupancy are required to deposit all tenants' security deposits in an account used only for that purpose.

Upon request by the landlord for a tenant to vacate or within five days after the landlord receives written notice of a tenant's intent to vacate, the landlord may provide notice to the tenant of his or her right to be present at the inspection of the premises. Such notice may advise the tenant that he or she may request a time of inspection to be set by the landlord during normal working hours.

The landlord may require the inspection take place after the tenant has vacated, provided that the inspection shall be either on the day the tenant completely vacates the premises or within four calendar days. If a tenant agrees to the mutual inspection, the landlord and tenant shall then inspect the premises and prepare a comprehensive listing of any damage to the unit that is the basis for any charge against the security deposit and the estimated dollar cost of repairing such damage. The landlord and tenant must both sign the listing or the tenant shall specifically state in writing any items that the tenant does not agree with. A tenant who disputes the accuracy of the listing may bring a lawsuit in the appropriate court for the county that the property is located in.

Security deposits may be applied to any unpaid rent or other amounts due and owing.

A landlord may recover the costs of any and all contractual damages plus the cost of any additional physical damages to the premises that are discovered after an inspection. Such sums may be recovered if the damage was discovered by the landlord prior to the earlier of 30 days after the tenant vacated or abandoned the premises or seven days after a new tenant moves in.

The landlord is required to notify the tenant in writing of any refund due and may retain unclaimed refunds after 60 days of notification.

4) Can the landlord enter my rental unit without my permission?

The Act states that tenants shall not unreasonably withhold consent to the landlord to enter in order to inspect the premises, make necessary or agreed repairs, supply services or exhibit the property to prospective tenants or buyers. The landlord shall not abuse the right of access or use it to harass the tenant. The landlord may enter the dwelling without consent in the event of an emergency, defined as a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

5) Who is responsible for maintenance and repairs?

The landlord shall comply with applicable building and housing codes materially affecting health and safety; make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition. The landlord is also required to keep all common areas clean and safe. In multi-unit complexes of four or more units, the landlord must provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish and other waste from common points of collection.

If the tenant has concerns about repairs and maintenance, express them to the landlord in writing, keep a copy and document the condition of the property with photos, video, etc.

6) If I am not satisfied with my landlord's efforts to make repairs or maintain the dwelling, can I withhold rent or break the lease?

It is considered self-help for a tenant to take either course of action without judicial consent. It is strongly advised that a tenant consult with an attorney before engaging in either conduct. In a subsequent lawsuit, it might be found that the landlord was in breach of the rental agreement. This is a determination that a judge makes on a case-by-case basis, considering the facts and law.

If it has become apparent that the relationship between the landlord and tenant has broken down irreparably, the better strategy might be for both parties to agree to cancel the lease and negotiate the terms of the renter's exit.

7) What should I do if I discover mold or pests in my rental unit?

Mold is everywhere, both indoors and outdoors. Everyone is affected by mold differently. For some even in smaller amounts it presents a significant danger, while others can tolerate it well. A tenant who believes mold is responsible for ill health effects should contact a physician immediately.

For information and tips on how to prevent or clean up mold, go to the Tennessee Department of Health website at <http://health.state.tn.us/HealthyHomes/mold.shtml>. The Department also has useful information about common pests at <http://health.state.tn.us/HealthyHomes/pests.shtml>.

The landlord should be notified when a tenant discovers mold or pests, to determine the extent of the problem and abate it if necessary. As previously noted, it is always wise to give written notice, keep a copy and document the problem. The local building codes and/or health department might also be of assistance.

8) What if my landlord fails to supply essential services?

"Essential services" are utilities including gas, heat, electricity and any other obligations imposed upon the landlord which materially affect the health and safety of the tenant.

The Act states that the tenant shall first give written notice to the landlord and then may do one of the following: (A) Procure essential services during the period of the landlord's noncompliance and deduct their actual and reasonable costs from the rent; (B) Recover damages based upon the diminution in the fair rental value of the dwelling unit, provided tenant continues to occupy premises; or (C) Procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

9) What are the tenant's obligations?

A tenant shall comply with all obligations primarily imposed by applicable provisions and housing codes materially affecting health and safety. A tenant is also required to keep the space as clean and safe as it was when the tenant took possession. A tenant must dispose of all ashes, rubbish and other waste to designated collection areas and receptacles. In addition, a tenant may not deliberately destroy, deface, damage or impair any part of the premises or permit any person to do so. Finally, a tenant may not disturb a neighbor's peaceful enjoyment of the premises.

10) What type of notice is required to terminate the tenancy?

Ten days' written notice is required to terminate a week-to-week tenancy, and 30 days' written notice is required to terminate a month-to-month tenancy.

11) Can a landlord retaliate against a tenant by raising rent, decreasing services, or bringing or threatening to bring an action for possession because a tenant has asked for repairs or maintenance?

No. However, the landlord may bring an action for possession if the tenant is in default in rent, or if complying with the applicable building or housing code requires work that would effectively deprive the tenant's use of the dwelling.

12) Who enforces the Landlord Tenant Act?

The Tennessee Division of Consumer Affairs does not enforce the Act. Rather, Consumer Affairs offers free mediation services for landlord and tenant disputes where a tenant has complained. Frequently these matters involve questions raised by the Act. However, the statute does not address every possible set of circumstances.

Mediation is a voluntary process where parties seek to reach agreements that are acceptable to both the landlord and tenant with the assistance of a neutral mediator. The Division of Consumer Affairs does not offer legal advice, investigate complaints, inspect rental dwellings or enter orders.

Both landlords and tenants might wish to contact an attorney regarding their rights and possible legal actions.

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